



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.06.2018

CORAM:

THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE Mrs.JUSTICE T.KRISHNAVALLI

W.P. (MD) No.11718 of 2018 and
W.M.P. (MD) Nos.10654 and 10655 of 2018

Murugesan

... Petitioner

-vs-

1. The Corporation Commissioner,
Madurai Corporation,
Madurai.

2. The Town Surveyor,
Madurai Corporation,
Madurai.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records, relating to the impugned order dated 12.05.2018 passed by the first respondent and to set aside the same as illegal and consequently, to direct the respondents that not to disturb the peaceful possession and enjoyment of the petitioner over the property in S.No.472/1-I, to an extent of 3750 Sq.Fts, situating in Muthuramalingapuram Main Veethi, Pykara, Madurai City.

For Petitioner	: Mr.M.S.Jeyakarthik
For Respondents	: Mr.J.Gunaseelan Muthiah, Addl. Govt. Pleader.

O R D E R

(Order of the Court was made by **M.V.MURALIDARAN, J.**)

The petitioner seeks to quash the impugned order dated 12.05.2018, passed by the first respondent, in and by which, he was directed to remove the encroachment in respect of the property in T.S.No.48. The petitioner also sought a direction to the respondents not to disturb the peaceful possession and enjoyment of the petitioner over the property in S.No.472/1-I, to an extent of 3750 Sq.Fts, situated in Muthuramalingapuram Main Veethi, Pykara, Madurai City.

<https://hcservices.ecourts.gov.in/hcservices/>

2. By consent on either side, this writ petition is taken

up for final disposal at the admission stage itself.

3. The case of the petitioner is that the property in S.No.472/1-I to an extent of 3750 Sq.ft. was originally purchased by his parents and after their demise, the petitioner is in continuous possession and enjoyment of the property, by paying all taxes to the 1st respondent. The 1st respondent, on the basis of his request, conducted a survey in the property and fixed its boundaries vide proceedings dated 27.09.1989. It is the further case of the petitioner that while so, to his shock and surprise, on 12.05.2018, the impugned order came to be passed against him, thereby directing him to remove the encroachment made in T.S.No.48, irrespective of the fact that he has been living in S.No.472/1-I. According to the petitioner, the impugned order was passed behind his back without getting any prior explanation from him and without verifying the revenue records.

4. It is brought to the knowledge of this Court that the petitioner has duly sent a reply dated 31.05.2018 to the impugned notice, which did not evoke any response from the respondents.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. It is the claim of the petitioner that the property itself belongs to him, which was surveyed by the 1st respondent way back in the year 1989 and boundaries were fixed in the four corner. Having surveyed his property and fixed boundaries, on one fine morning, the impugned order was passed, directing the petitioner to vacate the encroachment, that too, without affording an opportunity of hearing to the petitioner. According to the Corporation, the petitioner has illegally encroached the property in T.S.No.48, whereas it is the stand of the petitioner that he has been residing in S.No.472/1-I, which is his property and he has given suitable reply to the 1st respondent on 31.05.2018 to that effect.

7. Once the respondents receive a reply from a person, who suffered by their action, it is the bounden duty of the respondents to consider the same and to pass appropriate orders thereon without unnecessarily sitting over it endlessly. In view of what is stated hereinabove, we are inclined to pass the following order:

(a) This writ petition is allowed and the impugned order dated 12.05.2018 passed by the first respondent is set aside;

<https://hcservices.ecourts.gov.in/hcservices/>
The respondents are directed to consider the petitioner's reply dated 31.05.2018 and pass appropriate orders on the same by following due process of law, within a period of two months from

the date of receipt of a copy of this order.

(c) Till such time, the respondents are directed not to take any coercive steps against the petitioner.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Corporation Commissioner,
Madurai Corporation,
Madurai.

2. The Town Surveyor,
Madurai Corporation,
Madurai.

+1cc to Mr.M.S.Jeyakarthik, Advocate Sr.No.66629

+1cc to Mr.J.Gunaseelan Muthiah, Advocate Sr.No.66475

Myr/smn/ar

MK/JC/SAR 2/18.06.2018/3P/5C

W.P. (MD) No.11718 of 2018
01.06.2018